

## **WILL INFORMATION and CLIENT WORKSHEET**

**Provided by the  
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**Introduction:** This packet has two major purposes. First, it should provide you with information to assist you in determining what will happen to your property after your death. Second, it helps you provide the information needed by the Seventh Coast Guard District Legal Assistance Office in order to produce a will tailored to your needs.

### ***Answers to Common Questions About Wills:***

A. **WHAT IS A WILL?** A will is a written document which allows you to determine how your assets and property subject to probate will be distributed upon your death. It also allows you to determine who will be responsible for the care of your minor children and the management of their money should both you and your spouse die.

B. **WHAT WILL HAPPEN TO MY PROPERTY IF I DIE WITHOUT A WILL?** If you die without a will, your property will be distributed in accordance with state intestacy laws. Normally, the property will go to your spouse and/or your children, your parents, brothers and sisters, nieces and nephews, and other close relatives. Your friends, former spouse, or favorite charity would not get anything. The surviving member of an unmarried couple will not be protected. If you have no living relatives, your property may go to the state, even if a close friend or companion survives you.

C. **KEEP IN MIND** that some property is NOT covered by a will.

1. Money from your life insurance policy will go to the people you've named as beneficiaries on the policy no matter whom you've chosen as heirs in your will. However, the proceeds are usually taxed as part of your estate. **Your SGLI designation controls distribution of life insurance proceeds not your will.**

2. You may own real estate, cars, bank accounts and other property with another person or persons as joint tenants or as tenants by the entirety. Your joint tenants will usually inherit your share no matter whom you've named as heirs in your will.

3. In 10 community property states, the money, real estate and other objects you and your spouse acquire during your marriage are called community property. You own this property equally, no matter who earns the most. Therefore, your will *cannot* include your spouse's half of the community property, only your half.

4. Money from your retirement plan will go to the people you've named in your plan, with or without a will.

D. **WHAT WILL HAPPEN TO MY CHILDREN IF I DIE WITHOUT A WILL?** If the other parent is living, s/he retains full custody of your children. If the other parent does not survive you, the probate court will appoint a guardian for your children in accordance with the laws of the state. The court will normally appoint the person you have designated in your will, if the person is available. In your will you should provide for a guardian of your choice (someone you know and trust) and at least one alternate who is not your parent.

E. **DO I NEED A WILL?** You, the client, must answer this question. An attorney can advise you about the relevant law, but you must decide whether you want to distribute your property and care for your heirs by will.

F. **SIMPLE WILLS ONLY!!** *The Legal Assistance Office prepares only simple wills.* If you have an estate worth over \$1,000,000 (*including* life insurance benefits), you are **STRONGLY** discouraged from obtaining a will from our Legal Assistance Office. A qualified estate attorney may be able to set up simple trusts and other devices to protect your assets so that your heirs, and not your uncle (Sam) inherit your estate. Without estate planning, the estate may be reduced **SUBSTANTIALY** by federal estate taxes. If you insist on obtaining a will in this case, you will be asked to sign a disclaimer stating that you elected to obtain a will from Legal Assistance against the advice of your lawyer.

G. **WHAT ABOUT SPECIAL GIFTS?** A Special Gift (also known as a Specific Bequest) is a gift of a particular item to a certain person, charity, or corporation. For example, "I leave my blue, fur pajamas with the fire engines on them to my cousin Timothy Greene of Nashville, Tennessee." If you have some specific bequests list them in Question 12. Please make this list brief by confining it to important (ie., valuable) items. Be sure you describe the item with as much specificity as possible. If you have a more extensive list of gifts, it is more practical to list these gifts in your Letter of Instruction (which we have attached as enclosure (2)).

H. **WHAT IS A BENEFICIARY?** (See Question 15) A beneficiary is the person or persons who will inherit your estate when you die. The First Beneficiary (or Beneficiaries) will receive everything. The Second Beneficiary gets nothing unless all the people listed as First Beneficiaries die before you do. Usually, your spouse is listed as the First Beneficiary and your children are listed as your Second Beneficiaries. The same formula applies to Third Beneficiaries (ie, they receive nothing unless all those listed as Second Beneficiaries pre-decease you).

If you have children, whether minor or adult children, child beneficiaries require special attention. First, the category of children must be defined. Our wills define "children" as those now living and those born or adopted after the will is signed. **Stepchildren must be specifically included by informing the attorney of your wishes.** Second, minor children may not own property. The testator may want to consider a trust and trustee in the will to manage property for children. Third, a testator with older children(15 and older) may want to plan for distribution to grandchildren if a child predeceases the testator.

I. **PER STIRPES VS. PER CAPITA?** (See Question 15) There are two ways to leave your estate to your children; Per Stirpes and Per Capita. For example, if you are not survived by your spouse but you are survived by two children (named Alfa and Bravo), then Alfa and Bravo would each get 50% of your estate. Suppose Alfa died before you and left a child (named Alfa, Jr.). Where should Alfa's 50% of your estate go? To Bravo, or to Alfa, Jr.?

If you want Alfa's share to be inherited by Alfa's children then the share passes per stirpes (think of it as "down the stripe"). If you want Bravo to get the entire estate (thus shutting out Alfa's children), then the estate passes per capita. Per Capita distribution looks at the number of surviving heads (capitas) on the generational line.

Please indicate whether you desire Per Stirpes or Per Capita distribution on Question 15. Feel free to discuss with the Legal Assistance Attorney the benefits of each scheme. If you do not indicate either, then we will assume you intend Per Stirpes distribution (as this is most common).

#### Examples of Per Stirpes v. Per Capita Distribution to Children

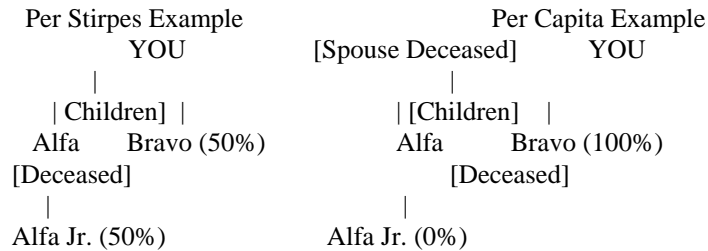
##### "Standard Distribution"

YOU  
|  
Spouse (100%)  
|  
| [Children] |  
Alfa (0%) Bravo (0%)

##### "Spouse Deceased Distribution"

YOU  
|  
Spouse [Deceased]  
|  
| [Children] |  
Alfa (50%) Bravo (50%)

### "Spouse and Child Deceased Example"



J. **WHAT IS AN EXECUTOR?** (See Question 16) An Executor is the person (also known as a personal representative) who will see that your estate is distributed according to the will. Because this person will often be required to file in your local Probate Court, it is preferable that the Executor live in or near the state where the bulk of your property is located. Your executor receives a fee for his services out of the proceeds of the estate and may use this fee to hire someone else (such as a probate attorney) to meet the Probate Court's requirements.

K. **TRUSTEES AND/OR GUARDIANSHIP FOR MINOR CHILDREN:** There are two issues you should be concerned about if you die and your children are still minors -- (1) who will raise them, and (2) who will handle the property (or money) they inherit.

(a.) Appointing a Trustee (Question 13 a): If your children are minors, they are not able to have control over any money they inherit until they reach the age of majority (18) or any age that you deem appropriate. Until that time either the Guardian will handle their money for them, or a Trustee will handle the money for the children's benefit. In the case where the Guardian and Trustee are separate people, the Guardian must request permission from the Trustee to get money for the children.

(b.) Appointing a Guardian (Question 17): The person you designate to raise your children should you and the children's other parent die, is called the Guardian (see Question 17). This person should be the person who will best take care of your children, as opposed to the person who is the wealthiest. In most cases, your life insurance will provide enough money to take care of your children.

(c.) Guardian of Person and Property for Minor Children by a Former Marriage (Question 17): Generally, the surviving natural parent will be determined to be the Guardian of his or her children unless there is a good reason to deny that parent Guardianship. You may designate another person to be Guardian of your children by a former marriage in the event that the surviving natural parent is unfit or unable to be Guardian.

L. **DISINHERITANCE.** A testator cannot prevent a spouse from sharing in his or her property simply by omitting the spouse from the will. Disinheriting the spouse may be ineffective in preventing access to the estate. In most states, a spouse is entitled to a portion of the property even if the will does not provide for the spouse. A divorce will usually prevent the spouse from inheriting the property. A separation agreement may also prevent the spouse from inheriting. A child may be disinherited if the testator specifically states his intentions in the will.

M. **INSTRUCTIONS FOR ORGAN DONATION AND BURIAL.** These are NOT put in the will.

N. **WHAT IS THE LETTER OF INSTRUCTION?** (Enclosure (2)). A Letter of Instruction is not legally binding, but tells your heirs what your intent is. Generally, items of sentimental value are listed on this document. Also, it helps your Executor locate your assets and debts so that he or she does not have to go on a treasure hunt when you die. The Letter of Instruction should be kept with the will so that your Executor will find it.

O. **WHEN SHOULD I CHANGE MY WILL:** The client is responsible for reviewing his or her will in the future to determine if the will still satisfies his or her needs. Wills should be reviewed every four or five years and upon change in the status of a beneficiary, executor or guardian. The client **MUST** seek the assistance of a lawyer to change a will.

P.       **EXPRESS YOUR INTENT:** Your will should reflect your wishes on how your property is to be distributed when you die. No one else should make these very personal decisions for you. If you believe that someone is trying to influence you, you should speak to your Legal Assistance Attorney about it.

## WILL QUESTIONNAIRE COVER SHEET

PLEASE COMPLETE THE FOLLOWING USING COMPLETE NAMES, NOT INITIALS.

NAME: \_\_\_\_\_

SPONSOR'S RATE/RANK \_\_\_\_\_ ACTIVE DUTY/DEP/RETIRED \_\_\_\_\_

SPONSOR'S SOCIAL SECURITY NUMBER: \_\_\_\_\_

SPONSOR'S COMMAND: \_\_\_\_\_

LOCAL ADDRESS: \_\_\_\_\_

\_\_\_\_\_

HOME PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_

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We will be happy to prepare a will for your spouse, if he or she desires one. A separate will is required for each person. We recommend that spouses render their wills at the same time.

### PRIVACY ACT STATEMENT

Individuals seeking legal assistance from the Seventh Coast Guard District Legal Office are requested to complete the attached form. The information you are requested to provide is solicited on a voluntary basis and will be used by the legal assistance office to assign counsel to you, to monitor progress toward disposition of your case, and to prepare periodic status reports on the case load of this office. The authority for soliciting and maintaining this information is found in 5 U.S.C. § 301 and 44 U.S.C. § 301.

You may contact the Seventh Coast Guard District Legal Office by calling (305) 415-6950 and requesting to speak with Legal Assistance Attorney Cary Mitchell. The completed documents may also be sent by facsimile to this office by dialing (305) 415-6960.

\_\_\_\_\_  
SIGNATURE

## WILL WORKSHEET

1. **Your full name:** \_\_\_\_\_

2. **Home address:** \_\_\_\_\_

**Home phone:** \_\_\_\_\_

3. **Your status:**

\_\_\_\_\_ Active Duty (rank/grade \_\_\_\_\_) \_\_\_\_\_ Spouse/dependent of active duty member (branch of service \_\_\_\_\_)

\_\_\_\_\_ Retiree (branch of service: \_\_\_\_\_)

\_\_\_\_\_ Spouse/dependent of retiree (branch of service \_\_\_\_\_)

4. **Legal Residency:** \_\_\_\_\_ a) Where do you vote? \_\_\_\_\_ b) Own Property \_\_\_\_\_? c) Pay taxes \_\_\_\_\_? d) Register your automobile? \_\_\_\_\_ e) What State is your Driver's License issued? \_\_\_\_\_

5. **For active duty members** - Name, address and telephone number of command:

\_\_\_\_\_

\_\_\_\_\_

6. **Marital Status:** \_\_\_\_\_ single \_\_\_\_\_ married \_\_\_\_\_ widowed

\_\_\_\_\_ separated \_\_\_\_\_ divorced \_\_\_\_\_ previously married

Current spouse's name: \_\_\_\_\_  
First Middle (Maiden) Last

Previous spouse's name: \_\_\_\_\_  
First Middle (Maiden) Last

7. **Children:** Number of children: \_\_\_\_\_ (Include adopted, deceased children, stepchildren, and children born out of wedlock)

Do you have any children from previous relationships? \_\_\_\_\_ Yes \_\_\_\_\_ No

Are any of your children deceased? \_\_\_\_\_ Yes \_\_\_\_\_ No

Are you, or is your spouse, pregnant? \_\_\_\_\_ Yes \_\_\_\_\_ No

Do you anticipate future children? \_\_\_\_\_ Yes \_\_\_\_\_ No

List FULL names of ALL children. Please circle appropriate child status and list ages. If child is from a previous relationship, please place a "\*" before name.

_____	Natural / Step / Adopted / Male / Female / Age
_____	Natural / Step / Adopted / Male / Female / Age
_____	Natural / Step / Adopted / Male / Female / Age
_____	Natural / Step / Adopted / Male / Female / Age
_____	Natural / Step / Adopted / Male / Female / Age

8. **Estimated Value of Gross Assets:** Are your assets worth more than \$675,000.00?  
\_\_\_\_ Yes \_\_\_\_ No  
(Assets include, but are not limited to, you and your spouse's combined real estate, life insurance, SGLI, personal property, stocks and bonds.) When calculating the value of your home, include only the equity that you have in your home.

THE TOTAL VALUE OF ALL YOUR ASSETS (INCLUDING INSURANCE POLICIES) EXCEEDS \$675,000.00. You are **STRONGLY** discouraged from obtaining a will from Legal Assistance if the value of your assets exceeds \$675,000.00. A person with such assets needs estate planning; without estate planning, the estate may be reduced SUBSTANTIALLY by federal estate taxes that may be reduced by taking advantage of measures that are beyond the scope of legal assistance. If you insist on obtaining a will in this case, you will be asked to sign a disclaimer stating that you elected to obtain a will from Legal Assistance against the advice of your lawyer.

9. **Disability:** Is any person who could receive gifts under your will mentally or physically disabled?  
\_\_\_\_ Yes \_\_\_\_ No

10. **Disinheriting a family member:** Do you want to disinherit a member of your family?  
\_\_\_\_ Yes \_\_\_\_ No/

If yes: Name and Relationship: \_\_\_\_\_

11. **REAL ESTATE:** Do you own real estate? \_\_\_\_ Yes \_\_\_\_ No  
If yes, in what state(s) is your real estate located? \_\_\_\_\_ Who do you want to receive your real estate after you die?  
\_\_\_\_ spouse \_\_\_\_ other: \_\_\_\_\_ (Note that if your property is held as joint tenancy with the right of survivorship or as tenancy by the entirety and your spouse survives you, your will cannot change this).

12. **GIFTS:** Are you making any specific bequests (gifts)? \_\_\_\_ Yes \_\_\_\_ No  
If yes, please list on a separate sheet the name and relationship of the person to whom you are giving the gift and a description of the gift or amount, if cash gift.

13. **MINORS:** At what age do you wish a minor child to receive your estate outright? Selecting an age greater than "21" will force the creation of an express trust, the administration of which can be expensive. If you select "18" or "21" you can avoid these expenses. \_\_\_\_18 \_\_\_\_21 \_\_\_\_other.

13 a. **A TRUST** can be established in your will to provide for children, and may be required in some instances. See Question 13. If you do not want your children to inherit the estate outright at the age of majority you will need to establish a trust. If you wish to set up a trust, you must specify the age at which you want the property to be distributed, and list your primary and alternate choices for trustee. You should list at least one person who is not your parent. \*\*As noted earlier, the Seventh District Legal Office will only draft simple wills. The Legal Assistance Officers will be unable to draft trusts for special needs children and may suggest you retain an estate planner or trust specialist if a trust is requested.

AGE OF DISTRIBUTION TO CHILDREN: \_\_\_\_\_ SEPARATE TRUST FOR EACH CHILD: \_\_\_\_\_ ONE TRUST FOR ALL CHILDREN: \_\_\_\_\_

TRUSTEE: \_\_\_\_\_  
(Name and Relationship) (State of Residence)

ALTERNATE TRUSTEE: \_\_\_\_\_  
(Name and Relationship) (State of Residence)

14. **STEPCHILDREN:** Are they to be:

\_\_\_\_\_ expressly **included** in your will, or  
\_\_\_\_\_ expressly **excluded** in your will, or  
\_\_\_\_\_ the will is to remain silent regarding stepchildren.

15. **BENEFICIARIES:** FIRST BENEFICIARY / IES (\_\_\_\_\_ Check here if spouse). If there are more than one first beneficiaries please indicate the percentage of the estate each is to receive. (Example: George Washington 50% and Martha Washington 50%.) Usually the Testator lists the Spouse as First Beneficiary to receive 100% of estate and the children to receive distribution equally if the spouse shall not survive the Testator. Keep in Mind: You may want to split up the estate 50% to current wife and 50% (or some other percentage) to children born from prior marriage to ensure children are protected.

Name and relationship: \_\_\_\_\_

Name and relationship: \_\_\_\_\_

**SECOND BENEFICIARY / IES (SHOULD YOU NOT BE SURVIVED BY ANY OF THE PERSONS LISTED AS FIRST BENEFICIARIES).** Usually your child, children, and future children are listed as second beneficiaries.

Most wills read: "If I am not survived by my spouse, then to my children (William Andrews and Katherine Andrews and any other children I may hereafter have)."

Name and relationship: \_\_\_\_\_

Name and relationship: \_\_\_\_\_

If it is your desire to name your children as secondary beneficiaries, please indicate whether you desire the bequest to be Per Stirpes or Per Capita (see cover letter for definitions).

Per Stirpes \_\_\_\_\_ Per Capita \_\_\_\_\_

**SHOULD NONE OF THE ABOVE BENEFICIARIES SURVIVE, WHOM DO YOU WISH AS THIRD BENEFICIARY / IES (Optional)**

Name and relationship: \_\_\_\_\_

Name and relationship: \_\_\_\_\_



Name and relationship:\_\_\_\_\_

Name and relationship:\_\_\_\_\_

16. **PERSONAL REPRESENTATIVE (EXECUTOR / EXECUTRIX):** Whom do you appoint to carry out the directions and requests in your will? You may appoint a single representative, co-representatives or successor representatives. Please provide the requested information (Note: Many states require the personal representative be your blood relative, or reside in your state of legal residence.) If you do not designate a personal representative the court will appoint someone to carry out your will. You should name at least one alternate who is not your parent.

**PRIMARY PERSONAL REPRESENTATIVE/EXECUTOR: (USUALLY SPOUSE)**

Primary:\_\_\_\_\_  
First Middle Maiden Last Relationship State

Alternate:\_\_\_\_\_  
First Middle Maiden Last Relationship State

17. **GUARDIANS OF MINOR CHILDREN:** Who do you want to care for your children if both you and your spouse die while your children are minors. Unless specified otherwise (e.g. in a trust), this person will also manage any money or property left to the children, subject to supervision by the Probate Court. Local law may require that the person be a state resident.

Primary:\_\_\_\_\_  
First Middle Maiden Last Relationship State

Alternate:\_\_\_\_\_  
First Middle Maiden Last Relationship State

If you are (DIVORCED; SEPARATED, THE PARENT OF A CHILD BORN OUT OF WEDLOCK OR STEPPARENT) do you want the other biological parent to control property your child may receive under this will?

\_\_\_\_ Yes \_\_\_\_ No

If no, list the child's name:\_\_\_\_\_

If no, list other parent's full name:\_\_\_\_\_

If no, who do you want to control the property of your child(ren)?

\_\_\_\_\_

Do you want the other agent to be the guardian of your child(ren) if you die? \_\_\_\_ Yes \_\_\_\_ No

If no, list the child's name:\_\_\_\_\_

If no, list other parent's name:\_\_\_\_\_

**LETTER OF INSTRUCTION  
in the Estate of**

Name: \_\_\_\_\_

**I. List of Gifts not listed on the will:**

ARTICLE    TO WHOM    /    RELATIONSHIP


**II. Credit Cards:**

Company	Card No.	Exp. Date

Credit card insurance? \_\_\_\_\_ Amount \_\_\_\_\_

Name of insurance company \_\_\_\_\_ Policy # \_\_\_\_\_

**III. Bank Accounts and Savings Deposits**

Name and Address of Bank	Type Account	Account Number

Bonds are located at \_\_\_\_\_

IV. U.S. Bonds

Denomination	Number	In Name Of
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Bonds are located at \_\_\_\_\_

V. Stocks, Mutual Funds, and Other Securities

Company	Date Purchased	Purchase Price	Certificate #
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Carried in account number \_\_\_\_\_ maintained with \_\_\_\_\_

Name and address of broker: \_\_\_\_\_

\_\_\_\_\_

VI. Insurance

1. I (do)(do not) have government life insurance.  
This insurance is (U.S. government life insurance)  
(National Service life insurance)  
(Servicemen's group life insurance)

The policy number is \_\_\_\_\_

Type of insurance \_\_\_\_\_

Amount of government insurance \_\_\_\_\_

The policy is located at \_\_\_\_\_

2. I have in effect the following commercial life insurance:  
Company Address Policy Number Amount


These policies are located at \_\_\_\_\_

The following loans are outstanding against these  
policies: \_\_\_\_\_

\_\_\_\_\_

3. Primary beneficiary \_\_\_\_\_

Contingent beneficiaries \_\_\_\_\_

4. Life insurance in effect upon the lives of my wife and children:

Name and relationship   Company Policy #   Amt Premium Due

\_\_\_\_\_

\_\_\_\_\_

5. The property and casualty insurance policies presently in effect are:

Company   City, State   Policy #   Amount

Personal liability \_\_\_\_\_

Hospitalization  
and health \_\_\_\_\_

\_\_\_\_\_

VII. Moneys Owed to Me

Amount

Debtor's Name and Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

VIII. Liabilities (Loans, notes not previously listed)

Amount   Lender's name and address   Date Made   Date Due

\_\_\_\_\_

\_\_\_\_\_

IX. Safe Deposit Box

Location of box \_\_\_\_\_

Safe deposit box key located at \_\_\_\_\_

X. Valuables not listed above:

Item

Location

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

XI. Other Pertinent Information and Instructions:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

XII. This record was last checked on: \_\_\_\_\_

### ADVANCE MEDICAL DIRECTIVE

An Advanced Medical Directive is an instruction to medical personnel expressing a desire for “natural death”. Desiring a “natural death” would stop one’s life from being prolonged artificially if a person has a terminal condition from which he will not recover and if death is imminent. Note that this instruction will stop intravenous food and liquid also. An Advanced Medical Directive does not give someone else the right to decide your fate, rather you are giving specific instructions to remove artificial life support.

Do you want an ADVANCED MEDICAL DIRECTIVE? \_\_\_\_ Yes \_\_\_\_ No

You may designate an agent to make sure that doctors / hospital staff carry out your instructions. You may elect a back-up agent in the event the first agent cannot or will not act. You may also elect joint agents.

First Agent: \_\_\_\_ spouse \_\_\_\_ other: \_\_\_\_\_  
Name and Relationship

Address & Telephone No.:

Second Agent: (Optional): \_\_\_\_\_  
Address & Telephone No.:

If you have designated two agents, you **must** choose one of the following:

\_\_\_\_ My agents are to act jointly. In this case, both agents must agree. This method allows the agents to share the burden of the decision.

\_\_\_\_ My second agent is to act only if my first agent cannot or will not act.

ORGAN DONATION. In your living will, you may authorize the donation of your organs.

Do you want your organs donated for transplant only? \_\_\_\_ Yes \_\_\_\_ No

Do you want your organs donated for medical / science purposes? \_\_\_\_ Yes \_\_\_\_ No